

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**VAL ZAJICEK, PT
1417 Wooden Valley Rd.
Napa, CA 94558**

Case No. 1D-2011-70849

Physical Therapist License No. PT 16462

Respondent.

DECISION AND ORDER

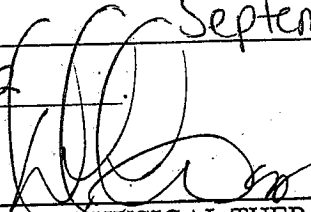
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on

It is so ORDERED

August 7, 2012

September 6, 2012



FOR THE PHYSICAL THERAPY BOARD OF
CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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8
9 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1D-2011-70849

12 **VAL ZAJICEK, PT**
13 **1417 Wooden Valley Rd.**
14 **Napa, CA 94558**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Physical Therapist License No. PT 16462**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Rebecca Marco (Complainant) is the Executive Officer of the Physical Therapy
21 Board of California. She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Mara Faust,
23 Deputy Attorney General.

24 2. Respondent Val Zajicek, PT (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about January 30, 1990, the Physical Therapy Board of California issued
27 Physical Therapist License No. PT 16462 to Val Zajicek, PT (Respondent). The Physical
28

1 Therapist license was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 1D-2011-70849 and will expire on March 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 1D-2011-70849 was filed before the Physical Therapy Board of
5 California (Board), Department of Consumer Affairs, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on December 15, 2011. Respondent timely filed his Notice of Defense contesting
8 the Accusation.

9 5. A copy of Accusation No. 1D-2011-70849 is attached as exhibit A and incorporated
10 herein by reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 1D-2011-70849. Respondent has also carefully read, and understands the effects
14 of this Stipulated Settlement and Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of the first cause for discipline in Accusation No. 1D-
26 2011-70849.

10. Respondent agrees that his Physical Therapist license is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Val Zajicek, PT has never been the subject of any disciplinary action. He is admitting responsibility at an early stage in the proceedings.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Physical Therapy Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Physical Therapy Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physical Therapist License No. PT 16462 issued to Respondent Val Zajicek, PT (Respondent) is publically reprovved by the Physical Therapy Board of California for violating Business and Professions Code sections 2660(h), 2261, 2684(b), and Title 16 California Code of Regulations sections 1399.91 and 1399.93 and shall comply with the following terms and conditions.

A. LICENSE SUSPENSION. Respondent's license is suspended for ninety days to allow him to come into compliance with terms B-E below. If Respondent complies with terms B-E below, prior to ninety (90) days from the effective date, Respondent's license suspension shall be lifted.

B. COST RECOVERY. Respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$2,000. Said costs shall be reduced, however, and the remainder forgiven, if Respondent pays 25 percent of said costs, or \$500, within ninety (90) days of the effective date of this Decision. In the event Respondent fails to pay within ninety (90) days of the Decision, the full amount of costs shall be immediately due and payable. Failure to pay the ordered reimbursement, or any agreed upon payment, constitutes a violation of the disciplinary order. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board. If Respondent is in default of his responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise Tax Board, the Internal Revenue Service, or by any other means of attachment of earned wages legally available to the Board. Failure to fulfill the obligation could also result in attachment to Department of Motor Vehicle registrations or license renewals, or both.

C. WRITTEN EXAMINATION ON THE LAWS AND REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY. Within ninety (90) days of the effective date of this decision, Respondent shall take and pass the Board's written examination of the laws and regulations governing the practice of physical therapy in California. If Respondent fails to pass the examination, he shall be suspended from the practice of physical therapy until a

1 repeat examination is successfully passed. Failure to comply with this condition constitutes a
2 material breach of this order.

3 D. CONTINUING COMPETENCY SUBJECT MATTER. Within ninety (90) days of
4 the effective date of this decision, Respondent shall complete a course of two hours in ethics, law,
5 and regulations by an approved agency recognized by the Physical Therapy Board. Respondent
6 shall also complete four hours in life support for health care professionals. Such training should
7 be comparable to, or more advanced than, the American Heart Association's Basic Life Support
8 Health Care Provider course. The course must include a hands on demonstration with a certified
9 course instructor. Respondent shall supply documentation verifying satisfactory completion of
10 coursework. Courses completed as part of this Order may not be applied towards continuing
11 competency hours required for the April 1, 2011 through March 31, 2013 renewal period.

12 E. CONTINUING COMPETENCY. Within ninety (90) days, Respondent shall
13 complete twenty-four (24) hours of continuing competency met through Authorized Pathways for
14 Obtaining Hours (California Code of Regulations Title 16 Division 13.2 Article 13 Section
15 1399.94). Respondent shall supply documentation verifying satisfactory completion of
16 coursework. Courses completed as part of this Order may not be applied towards continuing
17 competency hours required for the April 1, 2011 through March 31, 2013 renewal period.

18 F. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPIST DUTIES WHILE
19 SUBJECT TO PUBLIC REPROVAL. It is not contrary to the public interest for Respondent to
20 practice and/or perform his duties as a physical therapist after issuance of the public reproval.
21 Accordingly, it is not the intent of the Board that this order or the fact that the Respondent has
22 been publically reproved shall be used as the sole basis for any third party payor to remove
23 Respondent from any list of approved providers.

24 G. FAILURE TO COMPLY WITH ORDER. A material breach by Respondent of this
25 order shall constitute unprofessional conduct and shall be a basis for further disciplinary action by
26 the Board. In such circumstances, Complainant may reinstate the Accusation in Case No. 1D-
27 2011-70849 and/or file an amended accusation, and/or file a supplemental accusation alleging any
28 material breach of this order by Respondent as unprofessional conduct.

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2 ACCEPTANCE

3 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
4 stipulation and the effect it will have on my Physical Therapist license. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Physical Therapy Board of California.

7
8 DATED:

7/9/12

9 VAL ZAJICEK, PT
Respondent

10
11 ENDORSEMENT

12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Physical Therapy Board of California of the Department of
14 Consumer Affairs.

15
16 Dated:

7/9/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California

GAIL M. HEPPELL
Supervising Deputy Attorney General

Mara Faust

MARA FAUST
Deputy Attorney General
Attorneys for Complainant

25 SA2011102373
26 Stipulation.rtf

Exhibit A

Accusation No. 1D-2011-70849

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2 GAIL M. HEPPELL
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
SACRAMENTO, CA December 15, 2011
BY Cristy Sacramento ANALYST

8 **BEFORE THE**
9 **PHYSICAL THERAPY BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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12 **VAL ZAJICEK, PT**
13 **1417 Wooden Valley Rd.**
14 **Napa, CA 94558**
15 **Physical Therapist License No. PT 16462**

A C C U S A T I O N

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Rebecca Marco (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Physical Therapy Board of California, Department of Consumer
21 Affairs.

22 2. On or about January 30, 1990, the Physical Therapy Board of California issued
23 Physical Therapist License Number PT 16462 to Val Zajicek, PT (Respondent). The Physical
24 Therapist was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

...

(b) Fraud in the procurement of any license under this chapter.

...

(h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.

...

(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

5. Section 2661.5 provides in relevant part that "in any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable cost of investigation and prosecution of the case.

6. Section 2684(b) of the Code provides in pertinent part that to renew an unexpired license or approval, the licensee or the holder of the approval shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board, pay the prescribed renewal fee, and submit proof of the completion of continuing education or competency required by the board pursuant to Article 6.5 (commencing with Section 2676).

1 7. California Code of Regulations, title 16, section 1399.91, states:

2 “(a) As required by this article, a licensee must accumulate 30 hours of continuing
3 competency hours in each license cycle. A licensee must submit evidence of completing those
4 hours to the board in order to renew his or her license. In order to implement this requirement:”

5 “(1) For licenses that expire between October 31, 2010 and October 31, 2011, if the renewal
6 is submitted prior to the expiration of the original license, 15 hours of continuing competency
7 shall be completed.”

8 “(2) For licenses that expire on or after November 1, 2011, the full 30 hours shall be
9 completed.”

10 “(b) “For first-time renewals, if the renewal is submitted prior to the expiration of the
11 original license, the continuing competency hour requirements shall be one-half of the normal
12 cycle. The requirements of 1399.93 shall apply to any renewal under this subsection.”

13 “(c) For those licensees accumulating ‘continuing education units’ or ‘CEUs’ under the
14 continuing education requirements of APTA and CPTA, one CEU is equal to ten hours.”

15 8. California Code of Regulations, title 16, section 1399.93 states:

16 “‘For each renewal cycle, a licensee’s continuing competency hours must include the
17 following:”

18 “(a) Two hours in ethics, laws and regulations, or some combination thereof, and “

19 “(b) Four hours in life support for health care professionals. Such training should be
20 comparable to, or more advanced than, the American Heart Association’s Basic Life Support
21 Health Care Provider Course.”

22 9. Section 498 of the Code provides that a board may revoke, suspend, or otherwise
23 restrict a license on the ground that the licensee secured the license by fraud, deceit, or owning
24 misrepresentation of a material fact or by knowingly omitting to state a material fact.

25 10. Section 2261 of the Code provides that knowingly making or signing any certificate
26 or other document directly or indirectly related to the practice of medicine or podiatry which
27 falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional
28 conduct.

FIRST CAUSE FOR DISCIPLINE

(Fraud and Dishonesty)

11. Respondent is subject to disciplinary action under sections 498, 2261, 2660, 2660(b), 2660(h), 2660(k), 2684(b), and Title 16 California Code of Regulations 1399.91(a)(1) and 1399.93. The circumstances are as follows:

12. On or about January 10, 2011, Respondent signed under penalty of perjury a physical therapist renewal application wherein he certified that he "had accumulated at least the minimum continuing competency hours required by Section 1399.91 of the Title 16 of the California Code of Regulations within my renewal period and prior to my license expiration date." He further certified that "if I am audited by the PTBC, I can submit evidence of my completion of the continuing competency hours." Respondent's license expiration date/ renewal date was March 31, 2011

13. On or about July 11, 2011, as part of a random continuing competency audit, Physical Therapy Board staff wrote to Respondent and requested that he submit documentation to demonstrate his compliance with his completion of the continuing competency hours. On or about July 13, 2011, Respondent wrote the Board staff indicating that he had "chosen to direct my gifts and study out of your parameters of 'required competency.'"

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist Number PT 16462, issued to Val Zajicek, PT;

2. Ordering Val Zajicek, PT to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

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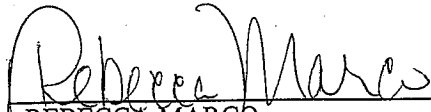
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3. Taking such other and further action as deemed necessary and proper.

DATED: December 15, 2011


REBECCA MARCO
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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